IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

WRIT PETITION NO.2201 OF 2004

Paramount Advertising Services. ...Petitioner.
Vs.
Municipal Corporation for Greater Mumbai & Anr. ...Respondents.
....
Mr. K. R. Bulchandani with Mr. P. R. Salvi for the Petitioner.
Mr.K. K. Singhvi, Senior Advocate with Mrs. Meena Doshi & Mrs. V. K. Khatu for the Respondents.
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CORAM : A.P. SHAH AND
DR.D.Y.CHANDRACHUD, JJ.

July 21, 2005.

ORAL ORDER (PER DR.D. Y. CHANDRACHUD, J.):

The Mumbai Heritage Conservation Committee has submitted its report dated 9th August 2003 holding that the hoarding erected by the Petitioner is liable to be removed on the ground that it violates Guidelines 1 and 2 of the Guidelines framed by the Committee which are as follows :

> **"1. Hoardings attached to Listed Heritage Buildings/Structures or to Buildings/Structures (listed or unlisted) within Heritage Precincts**
>
> No hoarding/advertisement shall be permitted which is attached in any manner to the facade or on top (i.e. On the terrace or roof, including its ridge) of any listed heritage building/structure or any building/structure (listed or unlisted) within a heritage precinct."

> **-2. Hoardings which obstruct the view of Grade I Listed Heritage Buildings/Structures/Public Open Spaces:**
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> No hoarding/advertisement shall be permitted which obstructs the view or mars the grandeur of a Grade I listed heritage building/structure/public open space."

2. The hoarding in the present case, is situated on Yusuf Building at Hutatma Chowk, Fort, Mumbai.

3. In pursuance of the provisions of Development Control Regulation 67, the State Government has notified a list of heritage buildings and heritage precincts. Item 633 of the list notifies the Fort Precinct as a heritage precinct. The Fountain precinct is included within those boundaries and is unquestionably a listed heritage Precinct. A map appended to the list defines the boundaries of 14 precincts which are a part of the Fort Precinct. There can therefore, be no dispute about the factual position that the hoarding is situated in a listed heritage precinct.

4. An Expert Committee was initially appointed by this Court and that Committee had come to the conclusion that the hoarding in question is liable to be removed. Thereafter, by its

order dated 19th April 2003, the Mumbai Heritage Conservation Committee which is constituted in pursuance of Development Control Regulation 67 was directed to verify the position of each hoarding with due notice to the hoarding owners or advertisers. The report of the Mumbai Heritage Conservation Committee dated 9th August 2003 has been prepared after due notice to all the hoarding owners and advertisers, who were given sufficient opportunities to make their submissions. All the other hoardings in the precinct including the surrounding area have since been removed. The Supreme Court by its order dated 20th May 2004 did not stay the removal of hoardings as directed by this Court from listed heritage buildings and listed heritage precincts. A careful and detailed verification has been conducted by two Committees – one being the Expert Committee appointed by this Court and the other by the statutorily constituted Mumbai Heritage Conservation Committee. The view of the expert Committee commends itself for acceptance. The Petitioners do not have any vested right in the continuance of the hoarding or the structure on which it is situated. Public interest in urban conservation must prevail, particularly since it finds recognition in the Development Control Rules. There is no reason to interfere in the exercise of the jurisdiction under Article

226 of the Constitution. The petition is, in the circumstances, dismissed.

5. In order to enable the Petitioner to have recourse to its remedies against this judgment and order, there shall be a direction to the effect that the hoarding shall not be liable to be removed until 15th October 2005.

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